

**BRIGHAM CITY PLANNING COMMISSION MEETING
TUESDAY, MARCH 06, 2007 – 6:30 PM
BRIGHAM CITY COUNCIL CHAMBERS**

PRESENT:	Reese Nielsen Bill McGaha Joan Peterson Barbara Poelman	Vice-Chairman Commissioner Commissioner Commissioner
CITY STAFF:	Mark Teuscher Eliza McGaha	City Planner Administrative Secretary
EXCUSED:	Steve Hill Kevin Lane Patti Ellis David Hipp Miles Brown	City Council Liaison Chairman Commissioner Commissioner Alternate

AGENDA

WORK SESSION – AGENDA REVIEW

REGULAR MEETING

PLEDGE OF ALLEGIANCE

~~APPROVAL OF THE FEBRUARY 06, 2007 WORK SESSION MINUTES AND REGULAR MEETING MINUTES~~

APPLICATION #2898 / PUBLIC HEARING / TO RECEIVE INPUT CONCERNING AN AMENDMENT OF THE GENERAL PLAN MAP FROM INDUSTRIAL/MIXED USE/OFFICE TO RESIDENTIAL LOW DENSITY / 1000 WEST 400 SOUTH / R. C. GARDNER DEVELOPMENT, INC., KEB INVESTMENT

APPLICATION #2881 / PUBLIC HEARING / TO RECEIVE INPUT CONCERNING A ZONING DISTRICT CHANGE FROM A-5 (AGRICULTURAL DISTRICT) TO R-1-8 (RESIDENTIAL SINGLE-FAMILY DISTRICT) / 1000 WEST 400 SOUTH / R. C. GARDNER DEVELOPMENT, INC., KEB INVESTMENT

APPLICATION #2890 / CONDITIONAL USE PERMIT – HOME OCCUPATION / 625 EAST 100 SOUTH / LARRY K. & BARBARA BELL

APPLICATION #2903 / CONDITIONAL USE PERMIT – HOME OCCUPATION / 285 EAST 900 N / SMITH EXCAVATION

APPLICATION #2865 / DISCUSSION OF THE 1500 NORTH STREET ACCESS TO THE KOTTER CANYON ESTATES SUBDIVISION

APPLICATION #2851 / CONDITIONAL USE PERMIT – NUCOR MANUFACTURING FACILITY / 1050 NORTH WATERY LANE / NUCOR BUILDING SYSTEMS

PUBLIC INPUT:

DISCUSSION:

REGULAR MEETING

Commissioner Nielsen opened the meeting at 6:33 p.m. Commissioner Peterson led the Pledge of Allegiance.

MOTION: A motion was made by Joan Peterson to amend the agenda to remove the approval of the February 06, 2007 work session and regular meeting minutes. The motion was seconded by Commissioner Poelman and passed unanimously.

APPLICATION #2898 / PUBLIC HEARING / TO RECEIVE INPUT CONCERNING AN AMENDMENT OF THE GENERAL PLAN MAP FROM INDUSTRIAL/MIXED USE/OFFICE TO RESIDENTIAL LOW DENSITY / 1000 WEST 400 SOUTH / R. C. GARDNER DEVELOPMENT, INC., KEB INVESTMENT

This is a request by R.C. Gardner Development and KEB Investment to amend the General Plan from an Industrial Mixed Use. This is a fairly large area between the railroad tracks and west of 1200 West and north of 400 South (Valentine Lane). This is public hearing. The applicant has provided a conceptual drawing of the area and some possible road alignments but it is not to be taken as a design; it is only a possibility. In this particular public hearing, only the issues regarding the General Plan should be focused on.

MOTION: A motion was made by Commissioner Poelman to open the public hearing for **APPLICATION #2898**. The motion was seconded by Commissioner Peterson and passed unanimously.

Jonathon Gardner came forward. Mr. Gardner represented Gardner Development who represented the Valentine property, KEB Investment and Bliss Law. He stated that they are very intrigued with the Brigham City area. They are a developer with about 30-years of experience. The principles of the business are natives of Utah, have been based out of Salt Lake City for over 30-years and have been involved with some very large projects such as the Gateway in Salt Lake City and John Huntsman's office. Recently, they have been busy with residential land use development. Due to the market in different residential land use management, they have significant projects in Morgan County, Davis County, Washington County. They did different feasibility studies and like what they have seen in Brigham City. There is a lot of new growth. They are here to petition an amendment to the General Plan. As it currently states, it allows light industrial, office and commercial. Mr. Gardner stated that they are very intrigued and impressed with the layout of the West Forest Street corridor. They have worked with Architectural Nexus in the past and know what kind of good work they have done.

They believe that one of the ways to promote the West Forest Street corridor in growth, in retail and commercial, would be by providing for an area within close proximity to support that kind of use. Their thoughts are that they would actually coincide along with the new corridor by promoting economic development for that area. They would do that mainly by providing housetops. Mr. Gardner stated several reasons they believe the amendment to the General Plan could be supported. 1) They believe it will work hand-in-hand with the West Forest Street corridor. 2) The south and eastern adjacent properties are currently zoned for residential purposes. Their request is R-1-8. They heard that just to the south of this property, there is land that could be set aside for the use of a regional softball/baseball park. They think this residential development would be in a great location and proximity for that park. They work closely with UTA and at some point commuter rail will come to Brigham City. With a commuter rail station planned, they believe their will be many people that will find Brigham City attractive in which to live. They also feel that the utilities for a project of this size are already stubbed to the site. The sewer has already been brought to 1200 West and runs north and south of the project. The water and power are close as well. They feel their project would add value to this area of town. They do know how to master plan what they consider communities. In their experience, people want to live in communities based on what is around it. They feel that Brigham City is ripe for growth. It is already happening in the light industrial and commercial side and they see a big need for residential in this area.

Mr. Gardner asked to apply a few of his comments towards their request for zoning. They have addressed the R-1-8 and the drawing the Commission has seen is conceptual and will have several iterations. They would intend to build a wonderful development with high integrity. They have stood by their promises in the past and they can be validated if other counties were asked about them. They would expect to do a good job in Brigham City.

MOTION: A motion was made by Commissioner Poelman to close the public hearing for **APPLICATION #2898**. The motion was seconded by Commissioner Peterson and passed unanimously.

Commissioner Nielsen recommended that this application be continued since the Commission is not full-handed and the other members would have valuable input with respect to this application and to allow the City to discuss with the developer and ascertain whether this particular location is optimum for low density housing versus another type of development. This will allow for the developer to work with the City to resolve any potential questions or conflicts that may arise from this particular action.

There has been no response from the neighbor notification.

MOTION: A motion was made by Commissioner Poelman to continue **APPLICATION #2898** until the March 20, 2007 meeting so the City will be able to meet with the applicant and additional analysis to determine the correct General Plan designation for this property and to discuss with other individuals that may be affected in the same general area. The motion was seconded by Commissioner Peterson and passed unanimously.

APPLICATION #2881 / PUBLIC HEARING / TO RECEIVE INPUT CONCERNING A ZONING DISTRICT CHANGE FROM A-5 (AGRICULTURAL DISTRICT) TO R-1-8 (RESIDENTIAL SINGLE-FAMILY DISTRICT) / 1000 WEST 400 SOUTH / R. C. GARDNER DEVELOPMENT, INC., KEB INVESTMENT

This application is in conjunction with the previous application.

MOTION: A motion was made by Commissioner Petersen to open the public hearing for **APPLICATION #2881**. The motion was seconded by Commissioner Poelman and passed unanimously.

Jonathon Gardner came forward. He stated that they had not personally spoken with Mr. Kapp. He is a neighbor of theirs in a different project. He said that he understood the circumstances by which he purchased the property and an understanding of his intent for the next 12-months. Mr. Gardner has spoken with the realtor that helped represent Mr. Kapp in his purchase. They are very well aware that there is a strip of land running east and west, that narrows towards the western side, that would create a 200 to 250-foot strip that would be undevelopable. That would only be if Mr. Brent Dickamore, who represents KEB Investment, or Gardner Development did not work with them. Their intent would never be to isolate a piece of land that would be inhibited for future growth in the form of commercial, light industrial or residential. He said they would be very interested in making sure that piece of property was either incorporated into their proposed development or incorporated into a future master plan. Although he cannot speak for the land owner, Mr. Gardner believes that it would be in Mr. Kapp's best interest to work with one of parties of this application. Mr. Gardner submitted that they could look into that but it is currently not included in the General Plan amendment or the rezone.

MOTION: A motion was made by Commissioner Peterson to close the public hearing for **APPLICATION #2881**. The motion was seconded by Commissioner ~~Peterson~~ Poelman and passed unanimously.

MOTION: A motion was made by Commissioner Poelman to continue **APPLICATION #2881** until the March 20, 2007 meeting so the issues can be resolved and individuals contacted that will be affected by the proposed plan. The motion was seconded by Commissioner Peterson and passed unanimously.

APPLICATION #2890 / CONDITIONAL USE PERMIT – HOME OCCUPATION / 625 EAST 100 SOUTH / LARRY K. & BARBARA BELL

The Bell's have resubmitted a much reduced proposal for their home occupation. They have submitted a site plan which shows the storage area more towards the north and access to Forest Street. Substantially reduced from the original proposal coming off of 100 South. They have indicated a number of things in their letter of intent to make substantial changes to their current operation.

Larry and Barbara Bell came to the table. Mrs. Bell stated that they do have a contract with Brigham City to pick up refrigerators for the energy department. She stated that she would like to do what she has promised to do which is to pick up the refrigerators from the City. They need a place to put them until they can be taken from their property to the recycle site. There would be no more than eight appliances on the property. They have a very small trailer the appliances will be put on and the area will be fenced off and locked so there can be no unauthorized access. Mrs. Bell said she did not list a time but it would be during the day from approximately 10:00 a.m. to 8:00 p.m. They have 3 to 5 days from the time they get a call to pick up the refrigerators.

Commissioner Nielsen asked Mrs. Bell if the Conditional Use Permit was approved with the condition that there be no uncontrolled drop-offs (those being by appointment only) and the site required to be locked, would those conditions cause undue problems for them. Mrs. Bell said that would not be a problem. Mr. Teuscher said that uncontrolled drop-offs are a concern of the Staff. The question is how the Bells will be able to manage that. Mrs. Bell stated that the drop-off location is right out their front window so it will be visible all the time and their dogs bark when anyone pulls up. It is almost 1,000-feet away from the previous location. Commissioner Nielsen agreed that there may be some enforcement and control issues with it. Mrs. Bell agreed that there may be people who will try to drop off without permission but they will have a sign posted and if items do get dropped off they will get them taken care of as soon as possible.

Andre Pommier came forward. He stated that he lives at 95 South 600 East. Mr. Pommier commented that he previously was against their application because it was an uncontrolled issue and could see no way that the Bells could control it, they way it was proposed. Looking at the revised plan, it now falls into what he considers a home occupation. As long as it is contained in a controlled area, he does not see a problem with it. Looking around the neighborhood, what the Bells have proposed is not much different than what he has around his shop and what is in most of the yards. Mr. Pommier stated that he removes his objection to this application and gives his support.

Marie Leatham came forward. She stated that the new proposed location is closer to where she lives but supports the Bells. She felt the Bells have really tried to come in to accordance with the home occupation laws and she has no objection to their proposal.

MOTION: A motion was made by Commissioner Poelman to approve **APPLICATION #2890** based on the findings of fact that the applicant will comply with Code chapter 29.06 Conditional Uses and comply with Chapter 29.20 Home Occupations and the comments from the Staff evaluation be addressed such as screening (that the applicant indicated they would do) and hours of operation be specifically identified and posted. Based on these findings of fact and that such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and that such use is in compliance with the Brigham City General Plan.

Discussion: Commissioner Nielsen said this service is on a by appointment basis only. Commissioner Poelman added to her motion that the service will be identified as items being dropped off by appointment only.

The motion was seconded by Commissioner Peterson and passed unanimously.

APPLICATION #2903 / CONDITIONAL USE PERMIT – HOME OCCUPATION / 285 EAST 900 N / SMITH EXCAVATION

This is for a major home occupation for Smith Excavation and Concrete. Mr. Smith is part owner in that and is asking for approval which will allow for the storage of construction equipment and supplies on a residential parcel.

Lorin Smith, Maria Smith and Robert Smith came to the table.

Commissioner Nielsen asked Lorin Smith if he had seen the Staff comments. Mr. Smith stated that he had not. Mr. Teuscher commented that they had been mailed out. Commissioner Nielsen stated that the Staff had some significant issues with the proposed conditions that Mr. Smith wants to pursue in that location. He also commented that it may be appropriate to continue this application or look at it and see if there is a way to resolve this issue between the applicant and Staff or they can go forward. Mr. Teuscher said it would be up to the applicant. If he would like to take time to read through the Staff evaluation he can do so or it can be continued. Lorin Smith stated that while they are here they should discuss a few things.

Mr. Smith said that he thinks it is perceived that there is going to be a major influx or increase of equipment and materials that is stored there. He said things are going to be similar today as they have been since they moved into the home in 1997. He said that they have been notified by the City that they are in violation with some of the piping materials they are storing. They want to pay the fee and come into compliance and find out what they need to do to make things work. Typically, on occasion, they may bring in a piece of their equipment to park for the evening such as a dump truck. Mr. Smith stated that he is aware of the City Ordinance that won't allow them to be parked on the city street and he has enough property to the side of his home to park them. He said they do not have any intentions of having a major increase or impact on the neighborhood with additional items that have not been there previously. It will continue on as it has been. It was not until they received an order of piping material, part of which was not supposed to go to their home, that a picture was taken and they were told they could not have the pipe stored there. Mr. Smith said they also have some mixed-use items stored there which are for personal use as well as for business such as a utility trailer.

Smith Excavation is currently not licensed at 285 East 900 North. It is licensed at 375 East 900 North. Mr. Teuscher stated that it became an enforcement issue when the large order of pipe was delivered there. The home occupation ordinance allows for some use of outside storage and is clearly stated as being secondary to the home. In this case the piping is what stands out and is typically not what is seen in a home based business.

Maria Smith asked to see the pictures that were taken. She wanted to see if they were taken the day the pipe was delivered. The Smith's have a 4.97-acre parcel with 250-feet of frontage. Mr. Smith stated that they are not trying to squeeze things into a small area; they have an abundant amount of space. Commissioner Nielsen commented that regardless of the size of the property, the issue is whether or not that type of storage fits within the definition of a home business. Mrs. Smith said they had not stored piping previously; the reason for that was they got a significant discount on the piping and since Smith Excavation is doing a lot of sewer pipe replacement in Brigham City they took advantage of that deal so they would be able to pass that savings onto the homeowners. The Smiths stated that if need be the piping can be stored at another location. Mr. Smith inquired if he could park his dump truck on his own property when he comes home for the evening. He felt that he should be able to have that right especially if that is his mode of transportation. There are many different people that take a company truck home every evening and park it at their home. Mr. Smith felt that he should have the right to park his company vehicle on his own private property. Commissioner Poelman asked if

the piping was going to continue to be delivered and stored. Mr. Smith stated that the green piping they have will last over a year and will not be a regular ongoing thing. They are trying to make pipe ordering more of an annual thing in order to take advantage of the discounts pipe companies offer in the winter.

Commissioner Nielsen asked Mr. Teuscher if it would be appropriate to continue this application for two weeks since the Smith's had not seen the Staff comments and see if they can work out a suitable arrangement with the staff that will keep everyone happy. Mr. Teuscher affirmed that would be appropriate. Mr. Smith said it would be helpful to know what is acceptable and what the ordinance is and how they can obtain a copy of the ordinance. Commissioner Nielsen commented that it is not specifically black and white and said the Planning Commission is probably not going to set a precedent because if they do it will have to apply city wide in that particular zone. If the Commission felt that it is something they do not want to see in the City anywhere then that is the action they will probably take. He encouraged the Smiths to work with the city staff to reach an amicable solution and bring it to the next Planning Commission meeting.

Robert Smith asked if they were being told that there was no differentiation between their property being on the edge of town right next to the other commercial properties versus his dad's property on 600 North and 300 West. He stated that their dad could physically store as much pipe on his front lawn as Lorin Smith is tucking in the back of his lot; it would, however, look much different. Mr. Teuscher commented that the zoning designation is a residential R-1-10 zone. The front area is R-1-10 and the back area is A-5. The house is in the residential zone and is treated as any other residential zone whether on a 5-acre piece or not. That zone dictates the land use rights and those rules apply to that piece. The biggest concern the Staff has is the outside storage of pipe. The issue of vehicles can be limited and resolved. The issue with the pipe is that it is not something that would be found in any other residential zone in the City. The home-based business sections of the Code state that they are secondary uses.

Lorin Smith asked if it was possible to have some of the pipe located there to use for projects on his own property. Mr. Teuscher stated that their property is split by two zones so whatever pipe is being used, such as irrigation pipe, is something that would be found in a 5-acre zone. It is clearly a differentiation between commercial storage versus personal property being used to irrigate a field.

Maria Smith stated that she became aware of a petition that was being sent around the neighborhood and believed that it was going around under the false pretenses of their equipment being a safety hazard. She stated that she met with the Principal and the PTA President of Foothill Elementary and also other neighbors and they did not have any safety concerns regarding the children in the neighborhood and the Smith's equipment. She said there has never been a concern for the safety of the children and the equipment. The school children walk on the opposite side of the street from the Smith property.

Mr. Teuscher stated that in regards to petitions the State Attorney General's office has indicated that petitions are not valid in Utah. Commissioner Nielsen said that the Planning Commission will entertain comments from the audience but will not accept any petitions because they are inappropriate.

Robert and Carolyn Krejci came forward. Mr. Krejci stated that they live across the street from the applicant. He expressed his opposition to the application and his appreciation for the neighbor notification. He said they contacted 33 households in the immediate area to find out how the neighborhood felt about the application and took a statement around to be signed by those in agreement with their objection. Mr. Krejci stated that 24 out of the 33 households were not in favor of the application being approved. He also submitted photographs that they had taken of the storage and equipment on Smith property. The photos showed a large dump truck with a trailer and a large power shovel and a front end loader. Mr. Krejci stated that is a typical scene. Those pieces of excavation equipment are very large and rather noisy and he believes they are not very compatible with a residential neighborhood. He stated his concern with having an industrial yard in their residential neighborhood. He expressed his concern for the safety of the children in the area including those walking to and from school with the excavation equipment.

Mr. Krejci read the statement that he had the 24 residents in the neighborhood sign which stated that they object to the on-site storage of equipment and vehicles associated with the Smith excavation business in a residential neighborhood; the business activity detracts from the surrounding residential area and creates noise and interferes with traffic on 900 North; the backup alarms on the vehicles create an unacceptable noise especially in the morning and evening; they are concerned for the safety of the children that walk to and from school and use the school playground outside of school hours; using residential property as a heavy excavation business location is incompatible with residential values and would clearly lead to degrading of the nearby property values and lead to neighborhood decline.

Mr. Krejci stated that approval of the application would negatively affect the neighborhood and the City in general and asked if the Commission would accept the signed statement. Commissioner Nielsen replied that it would not be accepted as it was not appropriate. Mrs. Krejci wanted to make mention that she is home during the day and knows what is going on with the kids in the neighborhood. She stated her concern and does not want anyone to get killed.

Donnell Astle came forward and stated that she lives directly west of the applicant and did not receive neighbor notification. She stated that there are children that come across the road and walk in front of her house. Ms. Astle stated

that when the big diesel trucks are started up in the mornings they are allowed to idle for 15 to 30 minutes and that they are very noisy and the exhaust is awful to smell. She said she believes there are other places to store the equipment other than the neighborhood.

Shannon Housley came forward and stated that she lives up the street from the Smith's on 300 East. She said that she goes to work every morning about 7:00 a.m. She stated that the children are not the only issue in regards to this application but the adults as well. She remarked that there have been several mornings where she has had to sit at the corner and wait for the drivers and vehicles to move.

Wannetta Nesiba came forward and stated that she lives on 325 East. Ms. Nesiba said that the issue is not just the storage of sewer pipe; it is the big equipment as well. The big equipment is there 90-percent of the time. Everyday when she goes to work and comes home there is a big dump truck, flat-bed truck or some such equipment. She felt the use was not residential.

Sue and Dan Smith came forward and stated that they live right in back of the school grounds and are not related to the applicant. They disagree with some of the previous statements. Mr. Smith said that although he appreciates the position of the other neighbors, he has never seen any children on the Smith's side of the road. He commented that the drivers that speed down 900 North are a bigger hazard than the trucks over at the Smith's property. Mr. Smith said that he thinks the fence around the school is sufficiently high enough to keep the balls inside the ball field so the kids don't have to go into the road. He stated that he has seen some of the Smith's trailers parked out in the front; however, most of it is parked back on the side of the house. Mr. Smith commented that there are 18-wheelers parked on the street right up from the Smith's residence that pose more of a hazard than the Smith equipment. He said he hasn't seen any storage problem and appreciated the comments the other neighbors have made but as far as he is concerned the application should be approved.

Mrs. Smith stated that she was approached to sign the petition and she had talked to people. She has gone to work at various early morning hours in the past and the Smith's have never disrupted anything in her going to work 5-days a week. She has not seen a problem with the kids. Mrs. Smith commented that the Smith's are very honest, do not disrupt the neighborhood and she thinks that in this day and age it is very lucky to have hard-working people who try to get things done properly.

MOTION: A motion was made by Commissioner McGaha to continue APPLICATION #2903 to the meeting of March 20, 2007. The motion was seconded by Commissioner Poelman and passed unanimously.

APPLICATION #2865 / DISCUSSION OF THE 1500 NORTH STREET ACCESS TO THE KOTTER CANYON ESTATES SUBDIVISION

The discussion at this meeting is going to be limited to the 1500 North Street access. Since the public hearing, the applicant and the adjoining property owners have met with the City. Royce Richards, representative of Kotter Canyon Development, submitted a letter regarding their discussions with the property owners and what has been done. They have made a design proposal to the City, associated with 1500 North, which access is a private access outside of the subdivision. The applicant has also given the City a copy of their traffic impact study they are submitting to the Utah Department of Transportation (UDOT). Mr. Teuscher stated that there are copies available of the traffic impact study and the recommendations and assumptions for those that would like a copy. The basic proposal is to develop a portion of the public right-of-way and due to the difficulty of acquiring the right-of-way; they can develop that as per a development agreement, according to the Code. The proposal is to develop curb and gutter on the north side and develop 32-feet of travel surface. There will be no sidewalk on the other side as there is no pedestrian traffic anticipated in that location, at this time.

Royce Richards, Greg Hansen, and Kevin Parkinson came forward. Mr. Hansen, Hansen & Associates, stated that the important issue is that the right-of-way the City is asking 1500 North to be, in the future, is 66-feet. If and when the properties to the south and to the north are developed there will be a full 66-foot-wide right-of-way. The street width is 46-feet back-to-back curb and gutter. That will happen someday in the future. The street is being laid out as such that when those lands are developed, the additional right-of-way will be granted, dedicated to the City and the additional roadway will be built. That also applies to the sidewalk on the north side of 1500 North, if and when that land is developed on the north side. It will be done, it just will not go in with this development. The alignment of the road is dictated by the location of some very large power poles that come along the north side of the existing 1500 North lane. Their proposal is to put the back of the curb and gutter 2-feet off the south face of the power poles. That is what is fixing the physical location of the roadway. From there, they will put as much paving as physically possible to the south and build a temporary private street.

Mr. Teuscher stated that under the Subdivision Ordinance, the Ordinance requires completeness of the public improvements, however, there are cases where the property owner is physically incapable of acquiring needed property at a reasonable cost and the City cannot make unreasonable demands on the property owner. In section 25.11.03 there are

other options such as a variance, a deferral or a development agreement. Based on the meetings that have been held, the City would recognize a development agreement for future development of the full 66-foot right-of-way when that property becomes available for development or the property owners intend to develop. The City may want to ask them to dedicate what they can and make it a public road and it would become the City's responsibility to maintain. Mr. Hansen commented that dedicating that strip of road would be better for all parties concerned. If the properties were made available to the developer, at this time, the developer would escrow the funds necessary to put those additional improvements in so they could be built at a later date.

The development agreement would put the burden on the developer. Mr. Law's property on the north is in the County which is in a different jurisdiction. Under the agreement, the adjacent property owners, if they choose to develop their pieces, would be obligated to make their improvements. The money for this will go into escrow or a bond. If Mr. Law annexes into the City and wants to develop he would then be responsible to make improvements; in his particular case it would be primarily sidewalk. If Mr. Damon were to develop, the developer would be released of that obligation and it would become Mr. Damon's or Mr. Lemon's responsibility to finish the road.

Commissioner Nielsen wanted to know what was going to protect the south side of the road from damage. Mr. Hansen said their proposal showed the edge of paving which will be close to trees and other physical features. If a temporary two-foot concrete strip were required to hold the paving edge, it would not be an issue. The design is crowned to bring all the flow back to the curb so there will be minimal runoff into Mr. Damon's property. Commissioner Poelman asked what the width of the proposed road is going to be. Mr. Hansen replied that from the edge of paving to the back of curb and gutter the road will have about 29-feet of travel surface. The standard for a private road is 26-feet; back-to-back curb and gutter. If the City is not willing to dedicate this road, it will be a private road. The City can only require the developer to dedicate what they can acquire. If they are incapable of acquiring full right-of-way, the City cannot force them to buy property. The problem is the land is available for sale at an unreasonable value that far exceeds the improvements that would be needed for a public road. Based on the traffic counts and the Code, the City could handle this as a Development Agreement. According to the traffic count, it is anticipated to have about 1,000 trips per day which probably will not see more than 500 trips per day per access. In comparison, there are about 18,000 trips per day on Main Street. In Brigham City, in a new subdivision, a typical paved width of a new developed road, of a 60-foot right-of-way, would be 35-feet. The power poles dictate the location of the road which does not affect Mr. Lemon's land but does affect Mr. Law's land, at a later date. If and when his property is developed to the north, additional lands would have to be granted and dedicated to Brigham City to get the full 66-feet. UDOT will not grant this development any other accesses; they dictate where the accesses off of Main Street will be because it is a State Highway; 900 North/Highland will continue to function as a minor arterial roadway.

Bliss Law came forward and stated that he is a resident of Brigham City and an adjacent land owner to the north of the proposed subdivision. Mr. Law reaffirmed his concerns about safety along 1500 North roadway as he has done previously. He felt it is the obligation of the Planning Commission to ensure the ordinances and laws are not waived. He talked about when he was developing property years ago, his compliance with City ordinances and other things he was asked to do by the City. Mr. Law stated his belief that developers should not be given preferential treatment and should be made to comply with all City ordinances. Mr. Law stated that he has not received any offer from the developer in regards to his property and knows of no offers to other property owners so the requirements of the City can be met. He read a letter he had addressed and given to the Planning Commission which letter was also placed in the application file. Mr. Law stated that he felt the developer was trying to get out of certain obligations. He stated that he is not opposed to the development but he felt that all developers should be made to comply with the same things he was made to comply with when he had developed property in the past.

Paul Damon came forward and asked, if he does not develop that area at this time, if the City would exercise Imminent Domain in the future when that road becomes critical or if there would be liability issues. Commissioner Nielsen replied that they did not have an answer to that question. From the Planning Commission perspective, if the adjacent landowners and the developer could reach an equitable agreement, satisfactory to both parties, on acquisition of land to allow a full street to be developed, the developer would put in a full street.

Mike Ravenberg came forward and stated that he is an adjacent land owner to the south of the proposed development. He did not want to discuss the technical issues. He felt that there was a principle that is potentially being compromised and it was his duty to come forward to discuss it. He asked if Brigham City officials had the right to intervene in private land negotiations. He stated that he felt that the fact that this public meeting is being held leads people to believe that the City is willing to bend on an ordinance that he thinks is black and white. If a 66-foot wide road is needed for this subdivision, which will potentially connect to Highland Boulevard, why allow less. Mr. Ravenberg felt that the City is an entity that is allowing the developer to dictate what the negotiations are going to be and that they are interfering with private land negotiations to the benefit of the developer and the expense of the adjacent land owners. Commissioner Nielsen turned Mr. Ravenberg's previous statement around and asked him if he would make the same statement if the roles were reversed and the claim was made that the City was making decisions on behalf of the adjacent landowner and at the expense of the developer. Mr. Ravenberg replied that he would not and commented that the private property owners have the right to own their property. He stated that this developer purchased the land with a business plan in mind. Mr. Ravenberg stated that each businessman has an obligation to do their homework and if they believe that the governing

entity will roll over if a mistake is made; the business owner may not do his homework quite as well. If the standards don't hold, what kind of a message does that send to the people who are supposed to abide by that standard? Mr. Ravenberg made the comment that if the standards were stiff, the developer would have done his homework and the 1500 North road would not be an issue. He wanted to know why some of the officials are so frantic about rescuing this developer. The feeling is that the City is definitely on the side of the developer. Mr. Ravenberg asked if Brigham City was afraid that it will miss out on urban sprawl and commented that there are some citizens who feel that urban sprawl is not the right thing for Brigham City. His family has been there for three generations and he felt they have the right to say that maybe they don't want 127 homes right next to their farm. He asked the Planning Commission to show the citizens that they will not bend when asked to by the developer, which he believes is what is being done. Mr. Ravenberg continued by saying that this is being directed by the current Mayor; economic development is her agenda and he understands that but disagrees that a subdivision equals economic development. He stated that if the City is going to have a standard then they should stand by that standard. Mr. Ravenberg stated that the developer can purchase the required land but asked who decides what is fair and equitable. He stated that is a private situation between the two parties and should have already been done. Commissioner Nielsen agreed that the negotiation of property is between the land owner and the developer and the government entity ought not to be involved in that.

Ed Lemon came forward and stated that he is not against the proposed subdivision. Mr. Lemon's concern is for the safety of his family and he asked Mr. Teuscher what guarantees could be made that taking the road from 66-feet down to 29-feet is going to be safe. He also commented that if the City is going to have a standard then that standard should be maintained. Mr. Lemon stated his belief that standards are for the protection and safety of the people. Mr. Teuscher stated that the standards are to allow traffic to flow on the size of that road. If the road was connected to 900 North, it would not be adequate. As it sits right now, there will be approximately 500 trips per day down that road. The travel surface that is being proposed can safely and adequately handle all of that traffic and probably could handle the 1,000 trips per day. In terms of transportation, even this design would still operate on what is called level surface A; meaning traffic flow is sufficient and the speed is normal. As far as guaranteeing that the road is safe, all the design standards say it is safe but there is no way to control how drivers drive. With the projected level of traffic and as the subdivision is currently designed, the road is safe. 1,000 trips per day is not a large number. In front of the City offices, there are about 18,000 trips per day. Mr. Lemon asked why other streets in the city are wider than 29-feet and why have a different standard now. Mr. Teuscher replied that it is not that we have a different standard, our Code allows the City to obligate the developer to build the 66-foot road through a development agreement.

Mr. Lemon said the developer told him that they had signed off on the subdivision. Mr. Teuscher stated that the subdivision has not been approved; it is in the process. Staff has been directed to make a recommendation to the Planning Commission, the Planning Commission will make a recommendation to the City Council and the City Council will make the final decision of whether this subdivision is approved or not. The development agreement is an option for the developer in the event he cannot purchase the land needed to improve the road at this time.

Jay Kotter came forward. Mr. Kotter wanted to say that these people are some of the finest he and his family have dealt with. They are honest, on time and they have appreciated their property going into their hands. Mr. Kotter stated that if people would go look at the kind of homes this developer has built, they will realize this subdivision will be an asset to the City. In regards to the 1500 North lane, Mr. Kotter stated that his family has tried to get additional width in the lane for years. Mr. Kotter stated that he hopes the parties involved at this time will see the value of cooperating with a good developer so the lane can be widened and done properly, which will increase the value of the adjacent properties.

MOTION: A motion was made by Commissioner Poelman to continue **APPLICATION #2865** until the March 20, 2007 meeting. The motion was seconded by Commissioner Peterson and passed unanimously.

APPLICATION #2851 / CONDITIONAL USE PERMIT – NUCOR MANUFACTURING FACILITY / 1050 NORTH WATERY LANE / NUCOR BUILDING SYSTEMS

Ed Aller and Mike Hall came forward. Mr. Aller stated that he received the Staff evaluation that same afternoon and could not address all of the issues but felt he could address the most important ones. Mr. Teuscher stated that the staff has asked that the office building be dressed up a little more than just a metal building such as adding a wainscot of brick or block. Also, the City will be putting in all the public improvements and talked about continuing with the landscaping theme in that area with a mixture of trees, shrubs, sod, rocks and such instead of rocks all the way along the building frontage. Mr. Aller stated that they had the full understanding that the City wanted the frontage along Watery Lane to look a lot like the Jack Francis building. The applicants said they would redo their drawings to make their application consistent with what was done by Jack Francis to keep consistency in that area. It was suggested to work with the City Forester as to which trees should be planted in that area because certain trees do well in certain areas of the city.

Mr. Aller stated that they will manufacture metal buildings in this facility. The office will house their engineers, detailers and some of the people that sell them. It is their product, they are proud of it, they think it looks good and they sell it all the time; approximately \$200-million dollars worth a year, nationwide. They want their product on their building so their employees and customers can see it. To add the 4-foot wainscot just along the front and on the east side that faces Watery

Lane will run about \$15,000. They have some tight budget issues on this project and they could definitely use that \$15,000 elsewhere. Mr. Aller asked to have the office plans reconsidered. He is not sure how good of a representation the plans first gave. He said they could dress up the outside of the building with some landscaping and make it look good. They did dress up the side with \$40,000 worth of fascia.

Commissioner Nielsen stated that he felt things need to look good, be visually appealing and be properly landscaped but not necessarily look alike. He said the package in this instance is not sufficiently defined as to what is wanted. Mr. Teuscher commented that the Staff could work this issue out with the applicant. Commissioner Nielsen replied that the Staff may want to put unreasonable requirements on the applicant and asked if that were to happen would the applicant have the opportunity to come back to the Planning Commission to work things out. He said he was comfortable with approval contingent on the applicant and Staff reaching a satisfactory agreement and in the event that they do not, the applicant will come back before the Planning Commission. Mr. Aller stated that he was comfortable with that as well.

Mr. Aller had another issue he wanted to discuss, in reference to a solid wall as indicated in the Staff evaluation. Mr. Teuscher stated that may not be applicable. In areas where commercial is next to residential it is required to have fencing that separates the two. This is not the case in this situation.

MOTION: A motion was made by Commissioner Poelman to approve the Conditional Use Permit for **APPLICATION #2851** with the approval of the Staff recommendations subject to the stipulations which are; must comply with Chapter 29.06 Conditional Uses, and must comply with Staff comments otherwise it will be returned to the Planning Commission. Based on the findings of fact that such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and that such use is in compliance with Chapter 29.06 Conditional Uses and such use is in compliance with the Brigham City General Plan. The motion was seconded by Commissioner Peterson and passed unanimously.

PUBLIC INPUT:

There was no public input.

DISCUSSION:

The Commissioners and Mr. Teuscher discussed the Smith's application (#2903) for a home based business and how the large excavation equipment was a huge safety concern and did not belong in a residential zone. The site plan they had submitted did not resemble what was actually happening on-site. Some of the Commissioners had driven past the place to check it out. Mr. Teuscher used the Bell's as an example. The Bell's previous application was not what would be considered or approved for a home-based business but they changed the plan to make it work. The Smith's basically have an equipment storage yard and that use is just not going to work in that location.

There was also discussion on the 1500 North lane. The property that is needed by the developer to improve the whole road is for sale but the developer is not willing to pay the price that the landowner is asking.

There was a two-minute break at this point.

Discussion continued on the 1500 North lane and the potential purchase of the property by the developer. Some felt the purchase price was unreasonable but that is an issue between the developer and the landowner. Commissioner Poelman commented that if the developer had thought it out ahead of time, the Planning Commission wouldn't have to deal with this situation. It was mentioned that the developer could purchase the land at what the landowner is asking and then increase the cost of the houses in the development to make up for the additional expense. It was mentioned that one of the land owners has a personal issue with the City, not the developer, and that is the reason for the unreasonable price of his land. The City is not going to get into the middle of how the developer and the landowners negotiate. It is not foreseeable that the issue between that certain landowner and the City will ever be resolved and if he decides to develop his land, he will be responsible to make the improvements. If the Planning Commission makes a recommendation to not approve the preliminary plan with the narrow road and that recommendation will go to the City Council and they will make the decision on it. The Commission would have to give a reason for denial of the preliminary plat. The City Staff is requiring the developer to make substantial off-site system improvements to the sewer and storm lines down 1500 North from Main Street all the way to 500 West. The developer will pay for those improvements now and has asked the City to reimburse those costs out of their impact fees. Their development will not happen without these improvements. This development has to be able to connect to the sewer and storm systems and the closest connection is at 500 West. The City wants to reduce the lift stations so by putting in the improvements in 1500 North to 500 West this developer is doing more than is normally required. This is why the impact fees could be used to reimburse the developer. They are doing what they can to meet the Ordinance. This developer intends to develop the land and build all the patio homes with strict

CC&Rs. The other lots will be sold off for building homes. The quality of the development will not detract from the patio homes.

MOTION: A motion was made by Commissioner Poelman to adjourn. The motion was seconded by Commissioner Peterson and the motion carried unanimously.

Meeting adjourned at 9:15 p.m.

This certifies that the regular meeting minutes of March 06, 2007 are a true and accurate copy as approved by the Planning Commission on April 03, 2007.

Signed: _____
Jeffery R. Leishman, Secretary